

**Notice of Allowability**

Application No.

09/308,192

Examiner

S. Devi, Ph.D.

Applicant(s)

BAXTER, ALAN GEORGE

Art Unit

1645

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/16/05.
2. ☒ The allowed claim(s) ~~is/are~~ 1 and 8-10, the latter renumbered as claims 2-4 respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **ATTACHMENT TO NOTICE OF ALLOWABILITY**

### **Applicant's After-Final Amendment**

#### **Applicant's Amendment**

- 1) Acknowledgment is made of Applicant's after-final amendment filed 11/16/05 in response to the final Office Action mailed 08/29/05. The amendment has been entered.

#### **Examiner's Amendment**

- 2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The authorization to prepare this Examiner's amendment was provided by Mr. Jonathan Bockman in a telephonic interview on 22 November 2005.

This application has been amended as indicated below:

- (a) The title of the instant application 'MYCOBACTERIAL CELL WALL COMPOSITIONS' has been replaced with the new title --METHOD OF IMMUNOMODULATORY TREATMENT OF INSULIN DEPENDENT DIABETES MELLITUS USING MYCOBACTERIAL CELL WALL COMPOSITIONS--.

- (b) Claims 11-19 and 22 have been canceled.

#### **Status of Claims**

- 3) Claim 1 has been amended via Applicant's amendment filed 11/16/05.  
Claims 23-25 have been canceled via Applicant's amendment filed 11/16/05.  
Claims 11-19 and 22 have been canceled via this Examiner's amendment.  
Claims 1 and 8-10 are pending and are under examination.

#### **Rejection(s) Moot**

- 4) The rejection of claim 24 made in paragraph 16 of the Office Action mailed 08/29/05 under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of Applicant's cancellation of the claim.
- 5) The rejection of claims 23, 24 and 25 made in paragraph 16 of the Office Action mailed 08/29/05 under 35 U.S.C. § 102(b) as being anticipated by Stanford *et al.* (WO 91/02542) as

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evidenced by Engelmayer *et al.* (US 20050004006), is moot in light of Applicant's cancellation of the claims.

6) The rejection of claim 23 made in paragraph 18 of the Office Action mailed 08/29/05 under 35 U.S.C. § 102(b) as being anticipated by Chugh *et al.* (*Folia Microbiol.* 37: 407-412, 1992), is moot in light of Applicant's cancellation of the claim.

### **Rejection(s) Withdrawn**

7) The rejection of claims 1 and 8-10 made in paragraph 16 of the Office Action mailed 08/29/05 under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicant's amendment to the base claim.

### **Remarks**

8) Claims 1 and 8-10, the latter renumbered as claims 2-4 respectively, are allowed.

9) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of amendments, responses or papers is (571) 273-8300.

10) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

November, 2005

  
S. DEVI, PH.D.  
PRIMARY EXAMINER